

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

FILED

NOV 04 2014

WESTERN DIVISION

NO. 5:14-CV-133-FL

JULIA A. RICHARDS, CLERK  
US DISTRICT COURT, EDNC  
BY *[Signature]* DEP CLK

TIMOTHY P. DANEHY )  
v. Plaintiff, )  
TIME WARNER CABLE )  
ENTERPRISES LLC. )  
Defendant. )

**DECLARATION OF  
TIMOTHY P. DANEHY**

Timothy P. Danehy declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746,  
that the following is true and correct:

1. I am over the age of 18 years and am under no disability which would prevent me from testifying competently to the matters set forth herein. I have first-hand knowledge of these matters.
2. I submit this declaration in support of plaintiff's opposition to defendant's motion for summary judgment.
3. I am the owner and sole user of the TracFone that was assigned number 704-421-6235.
4. I am currently in possession of the TracFone that was assigned number 704-421-6235.

5. I placed number 704-421-6235 on the national do-not-call list on September 30, 2013. (Correction to Scribner error in previous affidavit)

6. I witnessed six calls total from 877-566-4892 to cellular TracFone assigned 704-421-6235, three on November 25<sup>th</sup> and three more on November 26<sup>th</sup>, 2013. (Correction to Scribner error in previous affidavit)

7. I was awakened from sleep three times by the calls from 877-566-4892 to 704-421-6235 that were received in the a.m. of November 26<sup>th</sup>, 2013. (Correction to Scribner error in previous affidavit)

8. I never gave Time Warner cable express written consent or any other consent to call 704-421-6235.

9. I never requested telephone solicitations from Time Warner cable.

10. I received an email from Darrell Heger TWC's regional VP of operations-Carolinas on February 6, 2014 in which Mr. Heger stated, "I was hoping I could schedule some time with you to update you on the automated dialing issue you experienced."

11. I downloaded from [www.skycreek.com](http://www.skycreek.com) a two-page document titled A 20 YEAR PIONEER IN OPTIMIZING CONTACT TO REINVENT PERFORMANCE & COST on October 23<sup>rd</sup>, 2014.

12. When I answered the call on the evening of November 25<sup>th</sup>, 2013 I heard a pre-recorded message play.

13. I received a confirmation email from the national do-not-call registry on October 31<sup>st</sup>, 2014. The email confirmed number ending 6235 was registered on the national do-not-call registry on September 30<sup>th</sup>, 2013.

14. I made several attempts to settle this matter amicably before filing suit.

Executed this the 2<sup>nd</sup> day of November 2014.



Timothy P. Danehy

The undersigned hereby certifies that he served a copy of the foregoing document on the defendant in this action by placing the same in the United States mail, prepaid postage affixed, addressed as follows: D.J. O'Brien III

Brooks, Pierce, McLendon,  
Humphrey & Leonard, LLP  
1600 Whachovia Capitol Center  
150 Fayetteville Street  
Raleigh, NC 27601

This the 2<sup>nd</sup> day of November 2014.



Timothy P. Danehy

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